MINUTES
HEATH CITY COUNCIL
WORK SESSION – 5:00 P.M.
REGULAR MEETING - PUBLIC HEARINGS – 6:30 P.M.
200 LAURENCE DRIVE - HEATH, TEXAS
TUESDAY, FEBRUARY 13, 2018

ATTENDING: BRIAN BERRY, MAYOR
KELSON ELAM, MAYOR PRO TEM
JOE CHAMBERLAIN
RICH KRAUSE
FRANK NEW
PAUL RUFFO
BRENT WEAVER

Mayor Brian Berry called the Work Session to order at 5:00 p.m.

Work Session to discuss the 2018 Comprehensive Plan for the City of Heath, Texas.

Mayor Berry stated that the work session is a continuation of a previous work session held February 9th. Daniel Harrison and Erica Craycraft-Barlett of Freese and Nichols, Inc. Consultant Team were present to track live edits and recommendations to the plan by displaying them on the projector. Council began discussion on Section 5: "Livability Strategy". Specific areas addressed include Parks, Open Space, Trails, and Sidewalks. Discussion ended with "Energy Efficient Building Standards". Berry asked the consultants to provide a draft plan with the proposed changes for review at the next work session. Mayor Berry recessed the work session at 6:19 p.m. with plans to reconvene at 6:30 p.m. for the Regular Meeting.

Mayor Brian Berry called the regular meeting to order at 6:32 p.m., delivered the invocation, and led the Pledge of Allegiance.

2. Discussion and action regarding the Minutes of January 23, 2018.

MOTION: APPROVE MINUTES OF JANUARY 23, 2018 WITH REVISIONS.

MOTION MADE:	CHAMBERLAIN
SECONDED:	NEW
APPROVED:	PASSED UNANIMOUSLY

3. Discussion and action regarding the Minutes of February 9, 2018 – Work Session.

MOTION: APPROVE MINUTES OF FEBRUARY 9, 2018.

MOTION MADE:	KRAUSE
SECONDED:	NEW
APPROVED:	SIX TO ONE *(Ruffo abstained from voting – not present at Feb 9th meeting)*
ABSTAINED:	RUFFO

4. Discussion and Action Regarding a Resolution Calling a General Election to be Held Jointly with the Rockwall Independent School District and Administered by the Rockwall County Elections Administrator on Saturday, May 5, 2018 for the Purpose of Electing a Mayor and Two (2) Council Members, for Places (3 and 5). Two (2) Year Terms Each: Designating the Entire City as One Election Precinct; Designating the Polling Places; Designating Filing Deadlines: Ordering Notices of Election to be Posted and Published as Prescribed by Law in Connection with such Election; and Providing an Effective Date.

City Secretary Norma Duncan stated that the Resolution is a routine process calling the General Election of May 5th, 2018. It also tentatively sets the date to canvass the returns at the May 8, 2018 City Council meeting. Staff recommended approval.

MOTION: APPROVE RESOLUTION NO. 180213A CALLING A GENERAL ELECTION TO BE HELD JOINTLY WITH THE ROCKWALL INDEPENDENT SCHOOL DISTRICT AND ADMINISTERED BY THE ROCKWALL COUNTY ELECTIONS ADMINISTRATOR ON SATURDAY, MAY 5, 2018.

MOTION MADE: KRAUSE
SECONDED: CHAMBERLAIN
APPROVED: PASSED UNANIMOUSLY

5. Discussion and Action Regarding a Resolution Authorizing the Mayor to Execute a Contract with the Rockwall County Elections Administrator for Services Related to the May 5, 2018 General Election.

City Secretary Norma Duncan explained that the City of Heath jointly contracts its election services with the Rockwall County Elections Administrator and Rockwall ISD. This resolution would approve the contract for the May 5th, 2018 General Election. There were no major changes to this year's contract; staff recommended approval.

MOTION: APPROVE RESOLUTION NO. 180213B AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH THE ROCKWALL COUNTY ELECTIONS ADMINISTRATOR FOR SERVICES RELATED TO THE MAY 5, 2018 GENERAL ELECTION.

MOTION MADE: CHAMBERLAIN
SECONDED: KRAUSE
APPROVED: PASSED UNANIMOUSLY

6. Discussion and Action Regarding Award of the Construction Contract for the Craig and Drew CIP Street Repair and Sanitary Sewer Project and Regarding a Resolution Authorizing the Mayor to Execute a Construction Contract for the Project.

Chuck Todd, Capital Improvement Project Manager, stated that the contract pertains to rebuilding the cul-de-sacs on both Drew Lane and Craig Drive, and replacing the sanitary sewer on Drew Lane and Craig Drive, as well as on a small section of Drew near FM 205. The City received six bids, the lowest of which was GROD Construction at $285,790. Staff recommended approval.

MOTION: APPROVE RESOLUTION NO. 180213C AWARDING A CONSTRUCTION CONTRACT TO GROD CONSTRUCTION FOR THE CRAIG AND DREW CIP STREET REPAIR AND SANITARY SEWER PROJECT.

MOTION MADE: ELAM
SECONDED: RUFFO
Councilman Krause clarified several questions on performance bonds and maintenance bonds. Mayor Berry gave a special thanks to staff members Richard Dormier, Chuck Todd, and David Herbert for their work over 3-4 years with a $3 million CIP bond awarded in 2014. He commended them for addressing an exorbitant number of projects throughout the city.
APPROVED: PASSED UNANIMOUSLY

7. Discussion and Action Regarding the Application of Realty Capital Management, applicant, for a zoning change from (LR) Local Retail District, Town Center Overlay District and (A) Agricultural District to a (PD) Planned Development District on 122.438 acres of land situated in the Antonio Rodriquez Survey, Abstract No. 231, City of Heath, Rockwall County Texas, being all of a called 1.0 acre tract of land (part of a 74.28 acre tract) as recorded in Volume 133, Page 181 of the Deed Records of Rockwall County, Texas, all of a called 0.4 acre tract (First Tract) and all of a called 0.086 acre tract (Second Tract) as recorded in Volume 75, Page 505 of the Deed Records of Rockwall County, Texas, the remainder of a called 48 acre tract as recorded in Volume 60, Page 506 of the Deed Records of Rockwall County, Texas, and the remainder of a called 74.28 acre tract as recorded in Volume 165, Page 243 of the

Deed Records of Rockwall County, Texas, located at the southeast corner of the intersection of FM 549 and FM 550. (ZA-2018-01) ***The Planning & Zoning Commission has postponed this case to the March 6, 2018 meeting of the Planning and Zoning Commission.***

Mayor Berry explained that the Planning & Zoning Commission postponed this item to the March 6th meeting at their previous meeting held February 6. Berry stated that the public hearing would also be postponed to the March 13th City Council meeting.

MOTION: CONTINUE PUBLIC HEARING AS PRESENTED TO THE MARCH 13, 2018 CITY COUNCIL MEETING.

MOTION MADE:	CHAMBERLAIN
SECONDED:	ELAM
APPROVED:	PASSED UNANIMOUSLY

8. Discussion and Action Regarding an Ordinance amending Chapter 159, Zoning, of the Code of Ordinances and the zoning map of the City to grant a Conditional Use Permit to construct an accessory building (garage/guest house) 6,375 sq. ft. in area, 20 ft. in height, and built of like materials and design as the residence on 7.5 acres, situated in the E. Teal Survey, Abstract No. 207, Tract 86-2, City of Heath, Rockwall County, Texas, located at 8060 S. FM 549. Applicants/Owners: Steven L. and Carolyn Nabors. (Case No. CUP-2018-01)

Senior Planner Kevin Lasher stated this case was reviewed twice by the Planning & Zoning Commission. The original request was received in January for an accessory building of 6,375 sq. ft. Based on input from the Commission, the applicant asked for the item to be tabled to allow for revision. The request came back with a revised accessory building of 5,100 sq. ft. At the February 6th Planning & Zoning meeting, the commission recommended denial of the request (5 to 1) due to the large size of the proposed accessory building. On February 7, 2018, the applicant provided a letter proposing a revision to the proposed accessory building to 4,500 sq. ft. Twenty notices were mailed; five notices returned in favor of the request and three returned in opposition. Applicant Steven Nabors was present to answer questions; he clarified that his home is 8,800 sq. ft. underroof and 5,900 sq. ft. living area on 7.5 acre tract of land. He assured Council that the accessory building would be for personal use only with no commercial use. He further clarified that it would be composed of 100% stone.

PUBLIC HEARING to receive comments regarding the request.

Mayor Berry opened the public hearing at 6:58 p.m. and the following spoke regarding the request:

- Al Lowrance, 129 Mallard Crossing – asked for confirmation that the proposed accessory building would not be used for commercial purposes

There being no one else to speak regarding the request, Mayor Berry closed the public hearing at 6:59 pm.

Discussion and action regarding the request.

Planning & Zoning Chairman Steve McKimmey was present and clarified that the Commission reviews each request on a case by case basis. The decision to recommend denial was based on all relevant factors. The majority of the commissioners felt the proposed structure was too large in comparison to the main living structure; therefore, they voted to deny the request.

MOTION: APPROVE ORDINANCE APPROVING CONDITIONAL USE PERMIT OR AN ACCESSORY BUILDING/GARAGE/GUEST HOUSE LOCATED AT 8069 S. FM 549.

MOTION MADE:	CHAMBERLAIN
SECONDED:	BERRY

Councilman Weaver reiterated that the contention with regards to approval is that the property is adjacent to an existing neighborhood, where property owners have invested in their properties with consideration to their surroundings and the zoning standards in place. Mayor Berry stated that he wished to withdraw his second to the motion for approval of the ordinance.

MOTION: REMAND THE CASE BACK TO THE PLANNING & ZONING COMMISSION FOR THEIR REVIEW.

MOTION MADE:	ELAM
SECONDED:	NEW
APPROVED:	PASSED 6 TO 1
FOR:	BERRY, ELAM, KRAUSE, NEW, RUFFO, WEAVER
AGAINST:	CHAMBERLAIN

9. Discussion and Action Regarding the Application of Heath Crossing Limited, for approval of a Site Plan of proposed Lots 1, 2 and 3, Block A, Laurence Center Addition, being approximately 9.6 acres of land situated in the E. Teal Survey, Abstract No. 207, City of Heath, Rockwall County Texas, located at the northwest corner of the intersection of FM 740 and FM 549. (Case No. SP-2018-01). ***A companion Preliminary Plat application has been submitted under case file no. PP-2018-01.***

Director of Community Development Robert LaCroix stated that the site plan presented is for the proposed Tom Thumb grocery store and affiliated retail center (Laurence Center). In July 2015, City Council approved the zoning of a portion of this property to a Planned Development District for Local Retail Uses which included a 55,000 square foot grocery store, 23,593 square foot retail center, retail pad sites, and a fueling center associated with the grocery store. Planning & Zoning Chairman Steve McKimmey reported that the Commission reviewed the case at the Feb 6th Planning & Zoning meeting; their concern pertained to the number of trees being removed without being replaced. McKimmey stated that the Site Plan was in accordance with the Concept Plan and the Commission recommended approval (unanimously) with the following conditions: one additional tree, shrubs, and vegetation be added to the fuel station pad; all columns supporting the fuel station canopy be clad in a brick and/or stone material to 8 feet in height above the finished pavement; additional trees be planted along the detention pond with such trees to be planted on 75 foot centers where site conditions allow; and an additional 500 caliper inches of replacement trees be added to the 28.62 acre property. LaCroix stated that Phase 1 will include the grocery building on Lot 1, a multi-tenant retain/restaurant building on Lot 2, and a fueling station on Lot 3. The pad sites for Lots 4 through 9 will be site-planned and final-platted when a user has been secured for those properties. Tom Thumb representatives were present to answer questions. Staff recommended approval.

MOTION: APPROVE A SITE PLAN OF PROPOSED LOTS 1, 2 AND 3, BLOCK A, LAURENCE CENTER ADDITION, BEING APPROXIMATELY 9.6 ACRES LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF FM 740 AND FM 549 INCLUDING P&Z RECOMMENDATIONS.

MOTION MADE:	CHAMBERLAIN
SECONDED:	ELAM

Discussions continued with much concern surrounding the landscape buffer and tree mitigation. Tom Thumb Attorney Brad Williams (2728 N. Hardwood St, Dallas) was present and stated that the landscaping plan on Lots 4-9 would be brought before council with a site plan when a known user on the pad site/s submit an application. At 8:09 p.m., Mayor, Brian Berry recessed the meeting to go into Executive Session (closed meeting) in accordance with Texas Government Code Chapter 551, Subchapter D, the City Council will recess into Executive Session (closed meeting) to discuss the following: §551.071(2): Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: a matter in relation to Agenda Items # 9 and # 10. At 8:31p.m., Mayor Brian Berry closed Executive Session and reconvened the meeting into open session. He stated that no action was taken in Executive Session.

APPROVED:	PASSED UNANIMOUSLY

10. Discussion and Action Regarding the Application of Heath Crossing Limited for a Preliminary Plat of Lots 1-10, Block A, Laurence Center Addition, being a 28.62 acre tract of land described as all of a 13.30 acre tract of land described in Special Warranty Deed with Vendor's lien to Heath Crossing, LTD.

recorded in Instrument No. 20170000001806 of the Official Public Records, Rockwall County, Texas, and being part of that 13.65 acre tract of land described in Special Warranty Deed with Vendor's lien to Heath Crossing, Ltd. Recorded in Instrument No. 201600000017663 of said Official Public Records, and being all of that 1.06 acre tract of land described in Special Warranty Deed to Heath Crossing, Ltd. Recorded in Instrument No. 20160000000929 of said Official Public Records, and being part of that 0.62 acre tract of land described in Special Warranty Deed to Heath Crossing, LTD. recorded in Instrument No. 20160000001074 of said Official Public Records, and being a tract of land situated in the E. Teal Survey, Abstract No. 207, City of Heath, Rockwall County Texas, located at the northwest corner of FM 740 and FM 549. (Case No. PP-2018-01) ***a companion Site Plan application has been submitted under case file no. SP-2018-01.***

Director of Community Development Robert LaCroix stated that this is an administrative action for approval of the Preliminary Plat for Lots 1-10. The Plat meets all the requirements of the (PD) Planned Development District. Staff recommended approval.

MOTION: APPROVE A PRELIMINARY PLAT OF LOTS 1-10, BLOCK A, LAURENCE CENTER ADDITION LOCATED AT THE NORTHWEST CORNER OF FM 740 AND FM 549.

MOTION MADE:	CHAMBERLAIN
SECONDED:	KRAUSE
APPROVED:	PASSED UNANIMOUSLY

11. Discussion and Action Regarding an Ordinance amending Chapter 159, Zoning, of the Code of Ordinances and the zoning map of the City for a zoning change from (A) Agricultural District and (SF-43) Single-Family Residential District to (PD) Planned Development District for all uses permitted and regulations applicable in the (SF-43) Single-Family Residential District, subject to the Concept Plan and Development Standards set forth in the ordinance, on an approximate 49.507 acres being a tract of land situated in the J.O. Heath Survey, Abstract No. 116, City of Heath, Rockwall County, Texas, and all of that certain called 48.18 acre tract of land described in deed to DGC Operation Company, LP., as recorded in Instrument 20150000005912, Deed Records, Rockwall County, Texas, and all of that certain called 1.82 acre tract of land described in deed to Charles Wayne Fletcher, as recorded in Instrument 20150000005281 of said Deed Records located at the northeast corner of the intersection of Myers Road and Crisp Lane. Applicant: Todd Wintters with Engineering Concepts & Design, L.P. (ZA-2017-02) (Applicant has requested that the *Reception/ Banquet /Meeting Hall* use be deleted from this request.)

Director of Community Development Robert LaCroix stated that the property owners seek to change the current zoning (A) Agricultural District and (SF-43) Single-Family Residential District to (PD) Planned Development District. The applicant had previously requested that an additional use identified as a Reception/Banquet/Meeting Hall be included in the PD for Lot 5; however, due to concerns from adjacent property owners, the applicant has requested that this use be deleted from the request. The PD Concept Plan shows five separate lots with sizes ranging from 21.543 acres to 2.70 acres. Any future requests to change an established lot size would constitute a change to the Concept Plan and require an amendment to the PD ordinance at a public hearing. Applicants Craig and Gail Fletcher were present to answer any questions.

PUBLIC HEARING to receive comments regarding the request.

Mayor Berry opened the public hearing at 8:40 p.m. The following residents spoke regarding the request:

- Gary Knowlton, 324 Myers Road - spoke in favor of the new development.
- Bob Kurt, 180 Myers Road - stated that he spoke to several neighbors – all in support of the request – and expressed that this would be the best use for the property.

There being no one else to speak regarding the request, Mayor Berry closed the public hearing at 8:42 pm.

Discussion and action regarding the request.

Council clarified that the 'party barn' use has been removed from the request, and the only use would be as an accessory building.

MOTION: APPROVE ORDINANCE NO. 180213A FOR A ZONING CHANGE FROM (A) AGRICULTURAL DISTRICT AND (SF-43) SINGLE-FAMILY RESIDENTIAL DISTRICT TO (PD) PLANNED DEVELOPMENT DISTRICT ON AN APPROXIMATE 49.507 ACRES LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF MYERS ROAD AND CRISP LANE.

MOTION MADE: CHAMBERLAIN
SECONDED: RUFFO
Councilman New clarified that the vote does not include the building's use as a banquet hall or party barn.
APPROVED: PASSED UNANIMOUSLY

12. Discussion and Action Regarding Adding Trails Along Myers Road and Crisp Lane as Part of Myers Road/Crisp Lane Roadway Reconstruction Project.

Capital Improvement Project Manager Chuck Todd stated that the City has prepared plans for the reconstruction of Crisp Lane (from Hubbard Drive to Myers Road) and Myers Road (from Crisp Lane to Terry Lane). The concrete roadway would be 20-feet wide – without curb and gutter usage – and with drainage ditches along portions of the road. This item discusses possible trails on Crisp Lane and Myers Road, the best area for locating the trails, as well as width and cost of the trails. Citizens are concerned with the removal of trees to build the trail. Residents from Crisp and Myers were present to voice their objections to the trail and the removal of trees. Mayor Pro Tem Elam stated construction of a trail would create a public health and safety hazard by forcing people into a narrow bridge. Mayor Berry stated that this was a discussion only and no action would be taken tonight.

13. Discussion and Action Regarding a Facilities Agreement For Ambrosia Place between Ambrosia Place Heath LLC (Whittle and Johnson Custom Homes) and the City of Heath, Texas.

City Engineer Richard Dormier reminded Council that changes were made to the Development Agreement at February 13th Council Meeting; the item is brought back to this meeting as a Facilities Agreement that that outlines the duties and responsibilities of the developer with regards to constructing the site and filing the plat. The agreement was updated to require a sewer stubout and dedication of easements on the final plat to facilitate an extension of sewer to Meadowlake Farm Estates area in the future. It also includes a payment of park fees prior to acceptance of the final plat for filing with the County.

MOTION: APPROVE A FACILITIES AGREEMENT FOR AMBROSIA PLACE BETWEEN AMBROSIA PLACE HEATH LLC (WHITTLE AND JOHNSON CUSTOM HOMES) AND THE CITY OF HEATH.

MOTION MADE: CHAMBERLAIN
SECONDED: WEAVER
Councilman Krause stated he could not support the request, as the additional lot would add density to the area.
APPROVED: PASSED FIVE TO TWO
FOR: BERRY, CHAMBERLAIN, ELAM, RUFFO, WEAVER
AGAINST: KRAUSE, NEW

14. Discussion and Action Regarding a Resolution for the Consideration of the Use of Eminent Domain on Rabbit Ridge for an approximately 0.2149-acre tract.

Capital Improvement Project Manager Chuck Todd explained that the City is constructing the inside 24-feet of Rabbit Ridge Phase 2 – a future 4-lane undivided concrete roadway, to include a water line – from south of FM-550 to the Ridge Lakes Addition. The project includes the acquisition of right-of-way for the roadway and water line. Staff recommended approval of Resolution No. 180213D, authorizing City staff and the City Attorney to acquire a 0.2149-acre tract for completion of the project through the use of Eminent Domain.

MOTION: ADOPT RESOLUTION NUMBER 180213D TO AUTHORIZE THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE AN APPROXIMATELY 0.2149 ACRE PARCEL LOCATED AT APPROXIMATELY 1612 RABBIT RIDGE ROAD, HEATH, TEXAS, FOR THE RABBIT RIDGE ROAD WIDENING PROJECT.

MOTION MADE:	CHAMBERLAIN
SECONDED:	BERRY

Councilman New asked for clarification of the process.

APPROVED:	PASSED SIX TO ONE
FOR:	BERRY, CHAMBERLAIN, ELAM, KRAUSE, RUFFO, WEAVER
AGAINST:	NEW

15. Discussion and Action Regarding a Resolution for the Consideration of the Use of Eminent Domain on Rabbit Ridge for an approximately 1.342-acre tract.

Capital Improvement Project Manager Chuck Todd explained again that the City is constructing the inside 24-feet of Rabbit Ridge Phase 2 – a future 4-lane undivided concrete roadway, to include a water line – from south of FM-550 to the Ridge Lakes Addition. The project includes the acquisition of right-of-way for the roadway and water line. Staff recommended approval of Resolution No. 180213E, authorizing City staff and the City Attorney to acquire a 0.1.342-acre tract for completion of the project through the use of Eminent Domain.

MOTION: ADOPT RESOLUTION NUMBER 180213E TO AUTHORIZE THE USE OF THE POWER OF EMINENT DOMAIN TO ACQUIRE AN APPROXIMATELY 1.342 ACRE PARCEL LOCATED AT APPROXIMATELY 1392 RABBIT RIDGE ROAD, HEATH, TEXAS, FOR THE RABBIT RIDGE ROAD WIDENING PROJECT

MOTION MADE:	CHAMBERLAIN
SECONDED:	ELAM
APPROVED:	PASSED SIX TO ONE
FOR:	BERRY, CHAMBERLAIN, ELAM, KRAUSE, RUFFO, WEAVER
AGAINST:	NEW

Open Forum – citizens' comments.

No one was present to speak at the Citizens' Open Forum.

EXECUTIVE SESSION

At 9:28 p.m., Mayor Brian Berry recessed the meeting into Executive Session (closed meeting) in accordance with Texas Government Code Chapter 551, Subchapter D, the City Council will recess into Executive Session (closed meeting) to discuss the following: §551.071(2): Consultation with Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter re: Parkland Dedication Ordinance. At 9:47 p.m., Mayor Berry closed Executive Session and reconvened the meeting into open session stating. He stated no action was taken in the Executive Session and no further actions were needed.

Mayor Berry adjourned the meeting at 9:47p.m.

APPROVED:

BRIAN BERRY
MAYOR

ATTEST:

NORMA DUNCAN
CITY SECRETARY

CITY OF HEATH 19 59 STATE OF TEXAS